

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

Anthony O'Leary

v.

07-cv-269-JM

Warden, NH State Prison

ORDER

I herewith approve the Report and Recommendation of Magistrate Judge Muirhead dated December 2, 2009, no objection having been filed. The petition is dismissed as it includes unexhausted claims and petitioner has failed to file status reports as directed for nearly two years. Additionally, finding that the petitioner has failed to make a substantial showing of the denial of a constitutional right, the court declines to issue a certificate of appealability. See 28 U.S.C. § 2253(c)(2); Rule 11, Rules Governing Habeas Corpus Cases Under Section 2254; First Cir. LR 22.0.

SO ORDERED.

December 22, 2009

/s/Steven J. McAuliffe
Steven J. McAuliffe

United States Chief Judge

cc: Anthony O'Leary, pro se